

Application No. 09/410,332
Response Dated August 19, 2005
Reply to Office Action of April 20, 2005

REMARKS

I. Summary of Office Action

Claims 1-5, 7, 12-14, 16, 17, 19-26, 28, 33-35, 37, 38, 40-47, 49, 54-57, and 59-62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Florin U.S. Patent No. 5,583,560 (hereinafter "Florin") and Young U.S. Patent No. 5,353,121 (hereinafter "Young").

Claims 6, 27, 48, and 67 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin in view of Young and in further view of Evans U.S. Patent No. 5,987,448 (hereinafter "Evans").

Claims 8-11, 29-32, 50-53, and 69-72 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin in view of Young and in further view of the "Bookmark Management" article (available at <http://www.dartmouth.edu/~biomed/workshops/kcks/internet.html#bookmarks.html>).

Claims 15 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin in view of Young and in further view of Schultheiss U.S. Patent No. 6,208,384 (hereinafter ("Schultheiss")).

II. Applicants' Reply

Applicants respectfully traverse each of the above rejections. As will be shown herein, the prior art of record fails to disclose or suggest each and every limitation of Applicants' independent claims. Reconsideration of the rejections is requested.

A. Overview of Applicants' Invention

Applicants' invention, as defined by independent claims 1, 22, 43, and 62, relates to systems and a method in which program listings and information on simple categories of programming and combination categories of programming are supplied to an interactive television program guide.

Simple categories include distinct genres or themes such as drama, news, comedy, sports, and series. Combination categories are composed of multiple simple categories such as sports-drama, comedy-series, and news-sports. The interactive television program guide displays a list simultaneously displaying both the simple categories and the combination categories. The simple categories and the combination categories are also simultaneously selectable by a user from the same list. When the user selects one of the simple

categories or one of the combination categories, the interactive television program guide searches for those program listings that are associated with the selected category or combination category and displays them to the user.

B. Overview of Cited Art

The Examiner rejected all independent claims under 35 U.S.C. § 103(a) as being unpatentable over the combination of Florin and Young.

Florin refers to an electronic program guide system in which program listings are organized into a multi-level, hierarchical structure of categories (e.g., all, favorites, movies, sports, news, and music video (see col. 18, lines 3-16 and FIG. 28)) and subcategories (e.g., subcategories of "sports" including baseball, football, basketball, auto racing, hockey and golf (see col. 18, lines 61-63 and FIG. 29)). The user is unable to identify his interest in a subcategory (e.g., "baseball") until he has maneuvered through two levels of the Florin hierarchical category/subcategory structure.

Young discusses, among other things, a television schedule system with a background schedule display comprising schedule information. The background schedule information is

displayed over a portion of the television screen in response to user activation. A user may utilize a theme function to view a subset of the schedule information by selecting any number of topics under a selected theme. For example, "comedy" and "satire" may be selected as topics under the "movies" theme. A logical OR function returns a schedule of programs matching the selected theme and topic(s). In Young's television schedule system, a user must first select a theme in order to select a topic.

C. The Cited References Do Not Disclose
or Suggest Applicants' Claimed Invention

Applicants respectfully submit that neither Florin nor Young, taken alone or in combination, would enable a user to perform Applicants' claimed invention.

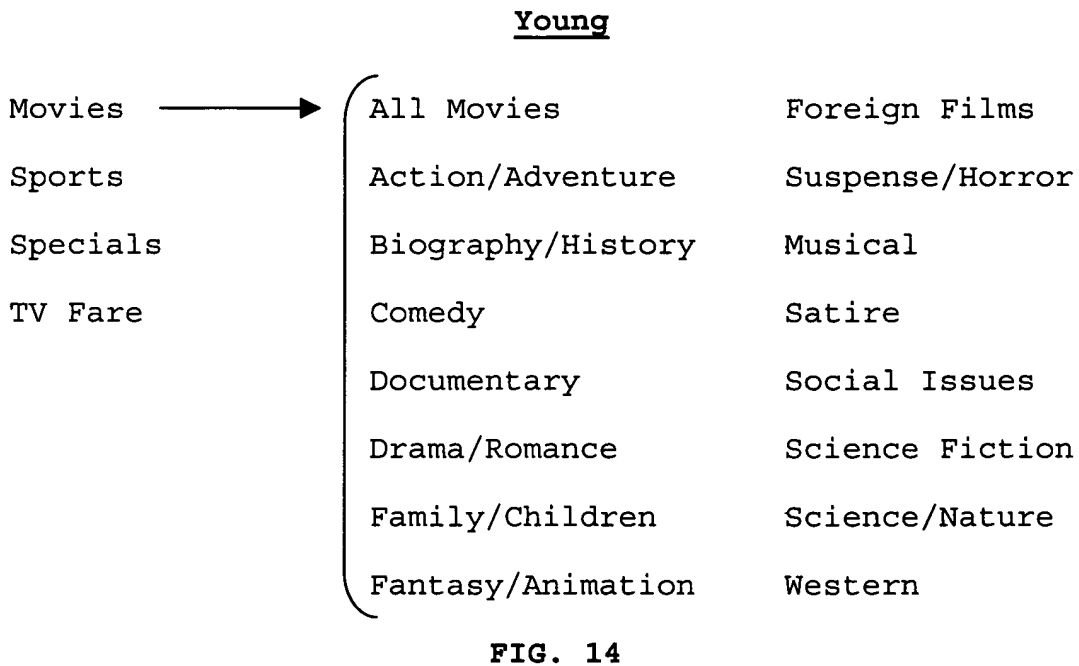
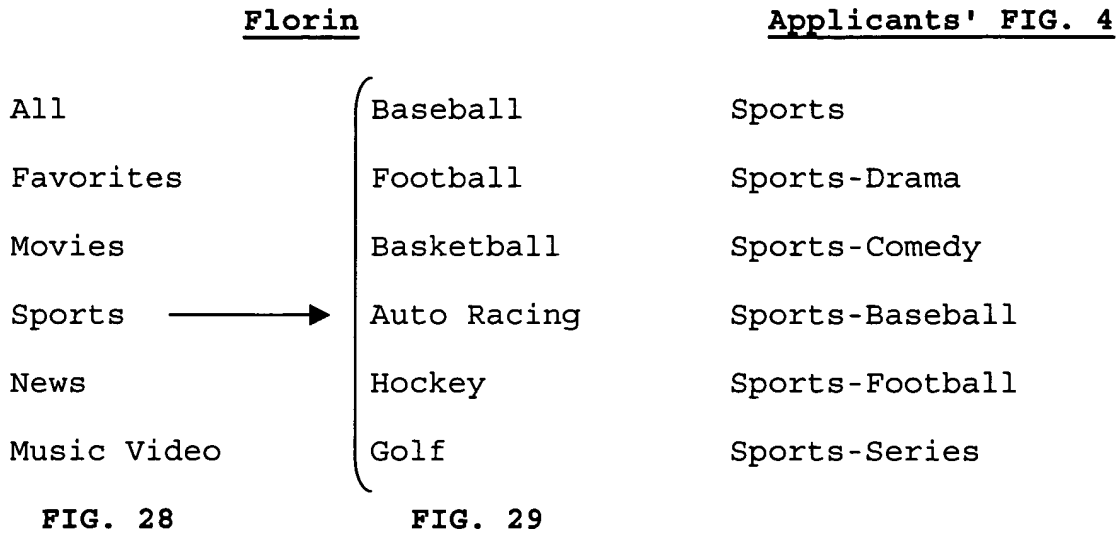
Each of independent claims 1, 22, 43, and 62 requires displaying a selectable list simultaneously displaying both the simple categories and the combination categories on user equipment. Each of Applicants' independent claims also distinctly requires simultaneous selectability of both simple categories and combination categories in the same list. This

is illustrated, for example, by Applicants' FIG. 4 which shows "sports" and "sports-drama" in the same selectable list.

Florin does not disclose or suggest the two features described above because Florin does not show combination categories in any form. For example, Florin does not show the ability to select "sports-drama" from the same list as "sports." Rather, Florin shows first selecting a category (e.g., "sports") from a main category list and then selecting a subcategory (e.g., "baseball") from a subcategory list.

Similarly, Young shows the ability to select a category from a main category list (e.g., "movies") and then select one or more subcategories (e.g., "satire" and "comedy"). In Young, these main categories are called "themes" and the subcategories are called "topics"; however, regardless of the terminology used, the categories and subcategories described by Florin and Young cannot be considered combination categories.

The differences between Florin, Young, and Applicants' claimed invention are illustrated by the following examples:



As defined in Applicants' specification, "[a] combination category is a programming category that is composed

of multiple simple categories" (page 15, line 31 - page 16, line 3). As shown in Applicants' FIG. 4, combination categories may include "sports-drama," "sports-comedy," "sports-baseball," "sports-baseball," and "sports-series." In accordance with Applicants' claimed invention, combination categories are displayed and simultaneously selectable in the same list as a simple category. The cited references simply do not show combination categories as described by Applicants' specification. For example, neither Florin nor Young show the ability to select "sports-drama," a combination of two simple categories, from the same list as "sports." Rather, these references require selection of a general category before selecting one or more subcategories and do not utilize combination categories composed of multiple simple categories, as in Applicants' claimed invention.

D. The Examiner is Relying on Impermissible Hindsight in Combining Florin with Young

It is well-settled that an examiner can satisfy the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness "only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine

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the relevant teachings of the reference." In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner has shown no such objective evidence but has instead relied on conclusory statements to support his argument that the references may be combined. Namely, the April 20, 2005 Office Action merely states that it would have been obvious to combine Florin and Young so that users may "easily browse programs...enabling a user to refine a search to a desired degree" (April 20, 2005 Office Action, pages 3-4).

However, such "broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence [of a motivation to combine]." In re Dembiczak, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Without objective evidence of a motivation to combine, the obviousness rejection is the "essence of hindsight" reconstruction, the very "syndrome" that the requirement for such evidence is designed to combat, and insufficient as a matter of law. *Id.* at 1617-1618.

Applicants submit that the only suggestion or motivation for the combination of Florin and Young is provided by the teachings of Applicants' own disclosure. As pointed out above, even if Florin and Young were capable of being combined,

the combination still does not disclose combination categories as defined by Applicants' disclosure. Although Young suggests the ability to select multiple topics under a general theme, Young's selection scheme is still hierarchical in nature. Applicants respectfully submit that their own disclosure has been impermissibly relied on in hindsight to see a suggestion in Florin and Young that simply is not there. Taken alone, or in combination, Florin and Young do not disclose or suggest each and every feature of Applicants' claimed invention.

E. Applicants' Disclosure Teaches
Away From Florin's and Young's Solutions

Applicants have proposed a novel and unobvious solution for overcoming the problems and shortcomings of hierarchical category structures, like those of the cited references. Because of the multitude of different categories and the abundance of category information, typical program category schemes first present a user with a relatively short list of higher-level or more general categories. After the user selects a general category, the user is presented with a typically larger listing of subcategories. This process of hierarchical categorization may continue through several layers

of subcategorization. While the list of categories and subcategories may be relatively short and simple to comprehend, the user may not readily appreciate which general category will lead to a desired specific subcategory. In addition, after navigating through this complex hierarchy of categories, a user may discover that there are no program listings for that category and may be required to begin the category selection process all over again.

Applicants have provided systems and a method in which program listings and information on certain simple categories of programming and certain combination categories of programming are supplied to an interactive television program guide. The interactive television program guide displays a list simultaneously displaying both the simple categories and the combination categories. The simple categories and the combination categories are also simultaneously selectable by a user from the same list. When the user selects one of the simple categories or one of the combination categories, the interactive television program guide searches for those program listings that are associated with the selected category or combination category and displays them to the user.

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III. Conclusion

Applicants respectfully submit that Florin and Young, taken alone or in combination, fail to disclose or suggest each and every feature of independent claims 1, 22, 43, and 62. Therefore, the rejection of claims 1, 22, 43, and 62 under 35 U.S.C. § 103(a) should be withdrawn. Furthermore, because claims 2-21, 23-42, 44-61, and 63-80 depend from independent claims 1, 22, 43, and 62, the rejection of claims 2-21, 23-42, 44-61, and 63-80 should also be withdrawn.

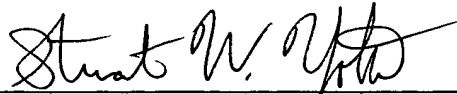
* * * Contingent Request For Telephonic Interview * * *

If for any reason the Examiner is unable to allow this application based on this Reply, Applicants request a telephonic interview with the Examiner. The undersigned agent would appreciate a telephone call from the Examiner before the mailing of a further Office action.

The foregoing demonstrates that claims 1-80 are patentable. This application is therefore in condition for allowance. Reconsideration and allowance of this application are accordingly respectfully requested.

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Stuart W. Yothers", is written over a horizontal line.

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